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Lender Tells Judge It 'Recreated' Letters

By GRETCHEN MORGENSON
Published: January 8, 2008

The Countrywide Financial Corporation fabricated documents related to the bankruptcy case of a Pennsylvania homeowner, court records show, raising new questions about the business practices of the giant mortgage lender at the center of the subprime mess.

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The documents — three letters from Countrywide addressed to the homeowner — claimed that the borrower owed the company \$4,700 because of discrepancies in escrow deductions. Countrywide's local counsel described the letters to the court as "recreated," raising concern from the federal bankruptcy judge overseeing the case, Thomas P. Agresti.

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"These letters are a smoking gun that something is not right in Denmark," Judge Agresti said in a Dec. 20 hearing in Pittsburgh.

The emergence of the fabricated documents comes as Countrywide confronts a rising tide of complaints from borrowers who claim that the company pushed them into risky loans. The matter in Pittsburgh is one of 300 bankruptcy cases in which Countrywide's practices have come under scrutiny in western Pennsylvania.

Judge Agresti said that discovery should proceed so that those involved in the case, including the Chapter 13 trustee for the western district of Pennsylvania and the United States trustee, could determine how Countrywide's systems might generate such documents.

A spokesman for the lender, Rick Simon, said: "It is not Countrywide's policy to create or 'fabricate' any documents as evidence that they were sent if they had not been. We believe it will be shown in further discovery that the Countrywide bankruptcy technician who generated the documents at issue did so as an efficient way to convey the dates the escrow analyses were done and the calculations of the payments as a result of the analyses."

The documents were generated in a case involving Sharon Diane Hill, a homeowner in Monroeville, Pa. Ms. Hill filed for Chapter 13 bankruptcy protection in March 2001 to try to save her home from foreclosure.

After meeting her mortgage obligations under the 60-month bankruptcy plan, Ms. Hill's case was discharged and officially closed on March 9, 2007. Countrywide, the servicer on her loan, did not object to the discharge; court records from that date show she was current on her mortgage.

But one month later, Ms. Hill received a notice of intention to foreclose from Countrywide, stating that she was in default and owed the company \$4,166.

Court records show that the amount claimed by Countrywide was from the period during which Ms. Hill was making regular payments under the auspices of the

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bankruptcy court. They included "monthly charges" totaling \$3,840 from November 2006 to April 2007, late charges of \$128 and other charges of almost \$200.

A lawyer representing Ms. Hill in her bankruptcy case, Kenneth Steidl, of Steidl and Steinberg in Pittsburgh, wrote Countrywide a few weeks later stating that Ms. Hill had been deemed current on her mortgage during the period in question. But in May, Countrywide sent Ms. Hill another notice stating that her loan was delinquent and demanding that she pay \$4,715.58. Neither Mr. Steidl nor Julia Steidl, who has also represented Ms. Hill, returned phone calls seeking comment.

Justifying Ms. Hill's arrears, Countrywide sent her lawyer copies of three letters on company letterhead addressed to the homeowner, as well as to Mr. Steidl and Ronda J. Winnecour, the Chapter 13 trustee for the western district of Pennsylvania.

The Countrywide letters were dated September 2003, October 2004 and March 2007 and showed changes in escrow requirements on Ms. Hill's loan. "This letter is to advise you that the escrow requirement has changed per the escrow analysis completed today," each letter began.

But Mr. Steidl told the court he had never received the letters. Furthermore, he noticed that his address on the first Countrywide letter was not the location of his office at the time, but an address he moved to later. Neither did the Chapter 13 trustee's office have any record of receiving the letters, court records show.

When Mr. Steidl discussed this with Leslie E. Puida, Countrywide's outside counsel on the case, he said Ms. Puida told him that the letters had been "recreated" by Countrywide to reflect the escrow discrepancies, the court transcript shows. During these discussions, Ms. Puida reduced the amount that Countrywide claimed Ms. Hill owed to \$1,500 from \$4,700.

Under questioning by the judge, Ms. Puida said that "a processor" at Countrywide had generated the letters to show how the escrow discrepancies arose. "They were not offered to prove that they had been sent," Ms. Puida said. But she also said, under questioning from the court, that the letters did not carry a disclaimer indicating that they were not actual correspondence or that they had never been sent.

A Countrywide spokesman said that in bankruptcy cases, Countrywide's automated systems are sometimes overridden, with technicians making manual adjustments "to comply with bankruptcy laws and the requirements in the jurisdiction in which a bankruptcy is pending." Asked by Judge Agresti why Countrywide would go to the trouble of "creating a letter that was never sent," Ms. Puida, its lawyer, said she did not know.

"I just, I can't get over what I'm being told here about these recreations," Judge Agresti said, "and what the purpose is or was and what was intended by them."

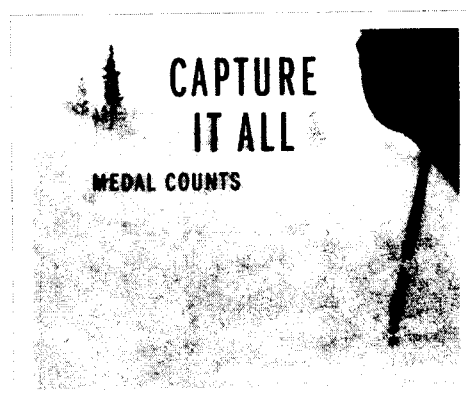
Ms. Hill's matter is one of 300 bankruptcy cases involving Countrywide that have come under scrutiny by Ms. Winnecour, the Chapter 13 trustee in Pittsburgh. On Oct. 9, she asked the court to sanction Countrywide, contending that the company had lost or destroyed more than \$500,000 in checks paid by homeowners in bankruptcy from December 2005 to April 2007.

Ms. Winnecour said in court filings that she was concerned that even as Countrywide had misplaced or destroyed the checks, it levied charges on the borrowers, including late fees and legal costs. A spokesman in her office said she would not comment on the Hill case.

O. Max Gardner III, a lawyer in North Carolina who represents troubled borrowers, says that he routinely sees lenders pursue borrowers for additional money after their bankruptcies have been discharged and the courts have determined that the default has been cured and borrowers are current. Regarding the Hill matter, Mr. Gardner said: "The real problem in my mind when reading the transcript is that Countrywide's lawyer

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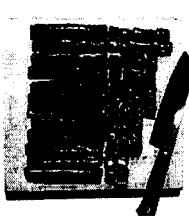
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